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Committee's bill would give CIA some FOIA relief

The Senate Select Committee on Intelligence has approved a bill to give the Central Intelligence Agency a partial exemption from the Freedom of Information Act.

Spokesmen for most press organizations called the bill a "vast improvement" over the original version.

The bill would exempt certain "operational" files located in three divisions of the CIA—the Directorate of Operations, Directorate for Science and Technology, and the Office of Security.

In calling for such a law, the CIA has said it would prevent highly trained agency employees from wasting time searching for and reviewing documents that the CIA traditionally has not released under the FOIA anyway. The workers could instead turn their attention to the backlog of FOIA requests for information that may actually be released, the intelligence agency reasoned.

The partial exemption approved by the Senate panel Oct. 4 is less than the total-agency FOIA exemption the CIA once sought.

Among changes generally welcomed by the press were amendments to provide for some measure of review by the courts and to specify more precisely what type of operational file will be exempt from search and review under the FOIA in each of the three CIA divisions.

The committee bill "is a vast improvement" from the original proposal, said Bruce W. Sanford, First Amendment counsel for the Society of Professional Journalists, Sigma Delta Chi. "It really appears to be little more at this point than an attempt to alleviate the administrative burden at the CIA in FOIA compliance."

Agreeing that the bill had been much improved were ANPA and the American Society of Newspaper Editors. "It is not a perfect bill, but it is far superior to what was originally introduced," said Richard M. Schmidt, ASNE general counsel.

However, Jack C. Landau, executive director of the Reporters Committee for Freedom of the Press, continued to be critical of the bill. In particular, he criticized as ineffective a change that would provide for search and review of files used in investigations of CIA misconduct.

"If the CIA is violating published presidential policy, State Department policy, its own regulations, executive orders, federal law or the Constitution, it is still protected under this bill," he said.

Committee staff expect the bill will be acted on by the full Senate before the end of the year. Similar legislation is pending before the House Permanent Select Committee on Intelligence but no action has been scheduled.

In another FOIA-related development, ANPA and ASNE have attacked a proposal from the Office of Management and Budget that the Privacy Act be considered one of the statutes under which federal agencies may deny access to records under the FOIA.

In their Sept. 29 comments, the press groups specifically took issue with OMB's statement that a majority of the courts that have reviewed the relationship between the two statutes concluded that the Privacy Act provides an exemption from the FOIA.

The press groups said three federal circuit courts of appeal, including the District of Columbia Circuit where the majority of the FOIA cases are heard, disagreed with the OMB's interpretation, while only two supported it. The conflict between the circuits, they said, can be resolved only by the U.S. Supreme Court or by legislation, not administratively by OMB. □